United States District Court

SOUTHERN DISTRICT OF CALIFORNIA

James Lynn O'Hines

V.

John Ontiveros, Warden; Ford CO III; Fridenmaker, CO III; Ortiz, Captain; Ruiz, Captain

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 08cv699-DMS-BLM

☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

☒ **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

The Court hereby **Denies** Plaintiffs Motion to Proceed In Forma Pauperis as barred by 28 U.S.C. § 19l5(g)[Doc. No.3], and **Dismisses** this action without prejudice pursuant to 28 U.S.C. § 19l4(a) for failing to prepay the $350 filing fee. Plaintiff is once again reminded that he may no longer proceed IFP in any federal district or appellate court pursuant to 28 U.S.C. § 19l5(a) while he is incarcerated unless he is in "imminent danger of serious physical injury." *See* 28 U.S.C. § 19l5(g). Further, this Court **Certifies** that any IFP appeal from this Order would not be taken "in good faith" pursuant to 28 U.S.C. § 19l5(a)(3). *See Coppedge* v. *United States*, 369 U.S. 438,445 (1962); *Gardner* v. *Pogue*, 558 F.2d 548,550 (9th Cir. 1977) (indigent appellant is permitted to proceed IFP on appeal only if appeal would not be frivolous). The Clerk shall close the file.

April 30, 2008
Date

W. Samuel Hamrick, Jr.
Clerk

s/L Odierno
(By) Deputy Clerk

ENTERED ON April 30, 2008